THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.13241 OF 2006

DATE: 06-9-2007

Between:

V.V.Nageswara Rao. …Petitioners

And

1. The Divisional Manager,
   National Insurance Co., Limited,
   Divisional Office, Eluru,
   West Godavari District and 4 others. …Respondents.

* * *

ORDER:

This writ petition is filed seeking a writ of Mandamus to declare action of the respondent No.1 in not remitting the amount pursuant to notice of the respondent No.2 in Form 14 (a) and Form 14 (b) in E.P.No.119/DR/2005-2006, issued under Rule 56 (6) of A.P. Cooperative Societies Rules, dated 22.5.2006 to attach the salary/allowances of the petitioner without any opportunity to him, as arbitrary and illegal.

2. It appears that the respondent No.4 while in service obtained hand loan of Rs.1.00 lakh and the petitioner herein stood as surety for the said loan. When the respondent No.4 did not remit the amounts, an application was filed before the Deputy Registrar of Cooperative Societies and the same was ordered and pursuant to the same, E.P. proceedings have been taken up against the petitioner herein.

Aggrieved by the same, the present writ petition is filed.

3. It is the case of the petitioner that the respondent No.4, the principal debtor, had already issued a letter dated 20.2.2006 requesting the Divisional Manager, National Insurance Company Limited, Canal Road, Agraharam, Eluru, to remit an amount of Rs.1,20,811/- to the society and return balance amount, which he is entitled for from the insurance company. According to the petitioner the insurance company has not deducted the said amount, therefore, this writ petition.

4. A detailed counter-affidavit has been filed by the respondent No.2 denying the allegations made by the petitioner and further asserting that basing on the letter given by the principal borrower i.e., the 4th respondent herein, to the first respondent under a copy to the second respondent, the second respondent has issued Form 14 (b) under Rule 52 (6) of A.P. Cooperative Societies Rules in E.P.119/DR/2005-2006 attaching the benefits of the 4th respondent to an extent of Rs.1,55,350/- as the 4th respondent has taken VRS. But the first respondent in his letter dated 21.6.2006 has informed the 2nd respondent that the terminal benefits have already been paid against two court orders uptill now and still there is another court order to be complied with and all the three orders have been received prior to the order of the second respondent and there is a balance of only Rs.19,708/- with him. Therefore, the request of the 4th respondent cannot be acceded to.

5. In the facts narrated above, it is clear that there are no amounts with the second respondent to satisfy the E.P. amount. Therefore, the writ petition is devoid of merits and liable to be dismissed and

accordingly dismissed. However, this will not preclude the petitioner from working out his remedies as available under law.

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C.V.RAMULU, J.

Date: September 6, 2007.
BSB